

**North Carolina Wireless 911 Board
MINUTES
May 18, 2007**

Members Present

Wayne Bowers (NCLM) via teleconference
Dave Corn (Yadkin Valley Telephone)
Bill Craigle (Alltel)
Joe Durham (NCACC)
David Dodd (NCAPCO)
Anand Gandhi (VZW) via teleconference
Steve Stoneman (ITS)

Staff Present

Ron Adams (ITS)
Richard Bradford (DOJ)
Marsha Tapler (ITS)
Richard Taylor (ITS)

Guest

Jerry Boggs (NCNENA/Catawba Co)
Valerie Carter (ITS)
Steven Newton (Orange Co)
Wesley Reid (Guilford Metro 911)
Carey Spence (Intrado)
Rebecca Troutman (NCACC)
Susan Waddell (NCAPCO/Gaston Co)

Members Absent

George Bakolia (NC CIO)
Robert Cherry (Tarboro Police Chief)
Christi Derreberry (Sprint/Nextel)
Trey Greene (Cingular)
Slayton Stewart (Carolina West Wireless)

Staff Absent

Chair's Welcoming Remarks:

Chairman Stoneman welcomed everyone and called the meeting to order at 10:00. He noted that Wayne Bowers and Anand Gandhi were participating via telephone link, and that Trey Greene may be calling in as well.

Ethics Awareness/Conflict of Interest Statement:

Chairman Stoneman read the Conflict Of Interest Statement and asked if anyone wished to note any potential conflicts. Dave Corn stated he would abstain from voting on agenda item four, and Anand Gandhi indicated a conflict or appearance of conflict for agenda items four and five.

Approval of minutes

Chairman Stoneman asked if anyone wished to make changes or additions to the minutes of the March 23, 2007 Wireless Board meeting. Joe Durham moved the minutes be approved as submitted, Bill Craigle seconded, and the motion carried.

Carolina West Wireless cost recovery amendment

Richard Taylor reviewed Carolina West's presentation at the January Board meeting. Carolina West was requesting reimbursement of the full cost of three thousand plus Phase II capable handsets. At the March meeting the Board approved a reimbursement of \$6.00 per handset. Carolina West has since submitted a revised cost recovery plan, including a large sum identified as "Cost of GPS Chipset for phones sold to date (Estimate)". It also included an estimated monthly recurring charge labeled "Cost for GPS Chipset (\$7.00 per handset)". Mr. Taylor reported that the Cost Recovery Subcommittee had considered the revised cost recovery plan, and determined that the request went beyond reasonable and customary charges. The subcommittee recommendation is to deny the cost recovery plan revision request.

Chairman Stoneman observed that they were requesting more than the Board had approved by indicating \$7.00 per handset versus \$6.00 per handset. Richard Taylor also underscored that they are seeking future reimbursements, noting that since December 31, 2006, the last FCC benchmark deadline for Phase II capable handset market penetration, such reimbursements have ceased. Since the FCC mandates have been met, the cost of the GPS chipsets is now considered a cost of doing business, not eligible for cost recovery. Joe Durham made a motion to accept the subcommittee's recommendation, David Dodd seconded, and the motion carried. Before proceeding to the next agenda item, Richard Taylor advised he has already spoken with Carolina West about this and he feels they will be submitting another revision.

US Cellular Phase 2 Cost Recovery Approval

Richard Taylor reported that US Cellular changed its third party provider within the last year, switching from TCS to Intrado. That switch actually lowered costs for which they would be seeking cost recovery, but it also highlighted the fact that TCS had never filed for Phase II cost recovery in US Cellular's behalf. In light of that, US Cellular has filed an amended plan including Phase I and Phase II which the Cost Recovery Subcommittee believes is reasonable and customary. The subcommittee recommendation is to accept the cost recovery plan revision request. David Dodd made a motion to accept the subcommittee's recommendation, Joe Durham seconded, and the motion carried.

Legislative Update

Richard Taylor mentioned that H1680 and H1681 (and their Senate equivalents) both address prepaid issues in a manner consistent with TracFone's approach. H1680 promotes collection of service charges at the retail level, and H1681 proposes a study conducted by the Joint Legislative Utility Review Committee regarding prepaid service charges, including a two year moratorium on collection of service charges from all prepaid providers. Richard said he has already heard from some prepaid providers who do not support this bill, and added that should it go through, loss of those revenues would financially impact this Board. These bills have been referred to Public Utilities, but have not been addressed yet, and do not appear to be going anywhere at this time.

Richard reported that studies such as these have been conducted in other states, noting that Maine passed legislation last month that embraces the same two payment options we have in 62A plus a third option addressing retail collection. That option requires the prepaid provider to contract directly with each retailer to collect the fee. Richard said Georgia has four or five options, including a retail collection option, but that option still puts the responsibility of collection on the carrier, not the retailer. It can be accomplished one of two ways, either as a percentage of the cost of a wholesale block of numbers or as a collection of no less than \$1.50 per month from an individual prepaid wireless subscriber. Richard added that he participated in a conference call with the NENA Legislative and Regulatory Committee yesterday where much of the conversation was devoted to the prepaid issue. He heard that TracFone is trying to get legislation at the Federal level, but isn't sure whether or not that is gaining any traction.

Dave Corn asked Richard if anyone else has solicited his opinion of these bills, and what his opinion is. Richard replied that he doesn't think we need to do a two year study or a two year moratorium. He said he thinks we need to look at what other states have done, realizing that there is no silver bullet to cover every scenario. Richard said that in his opinion, the Maine legislation appears to be the best simply because it does provide three options. Chairman Stoneman asked Richard if there have been any requests for information put to him by anyone in the legislature regarding these two bills, and Richard replied no. Dave Corn asked if we should offer an opinion to the legislature, and Chairman Stoneman replied only if we are asked. Bill Craigle concurred, adding that TracFone created problems for itself by insisting on a 1% fee for all prepaid carriers rather than letting those that are happy with the current model to continue using it.

Richard Taylor continued the legislative discussion with H1561, the bill introduced on behalf of this Board regarding creation of a grant fund. He mentioned that it had been scheduled for a committee hearing on Wednesday, May 9, but unfortunately Representative Saunders' brother died unexpectedly and the hearing had to be postponed. Richard said some opposition to the bill has surfaced among some carriers regarding other carriers having access to grant funds. He characterized the concern as one of grant funding contributed by one carrier being used to fund a competing carrier. A recommendation was made to eliminate that language, but before any action was taken another event intervened. That was the combination of H1561 with H1755.

Richard reminded everyone that H1755 is the bill sponsored by NCTIA seeking to create a single 911 Board to collect and administer a single statewide service fee. This week NCTIA proposed combining it with H1561, incorporating the changes mentioned above regarding prohibiting CMRS provider access to grants. Other minor changes

included capping the administrative fee provided to the Board at 1%, a different approach to privacy issues, and capping the size of the grant fund.

Richard Bradford explained there is a general reference to release of customer information as limited by federal privacy laws. Mr. Bradford said that's a rather general reference; there is a specific statute, so he suggested they point to the statute and rules associated with that federal law. The grant fund would be capped at \$3 million each year, and the funds would have to be earmarked for the grants within three months after June 30th of each year.

Richard Bradford added that the other substantive change to H1755 is the addition of criteria that the Board would have to meet in order to award grant money. The criteria include documenting that there is a critical need for additional funding for certain PSAPs, particularly in rural areas, to ensure that enhanced 911 service is deployed throughout the State. Mr. Bradford observed that is a substantive change, regardless of whether or not it is contrary to anybody's views. Chairman Stoneman asked how we would determine the criticality of the need, and Richard replied that's a good question, and one of the reasons he brought it up. Chairman Stoneman asked if rule making could help, and Richard replied rule making could help with any definition, as long as it is something that we get to interpret.

Guest Rebecca Troutman asked how there would be any additional funds if the Board sets the rate to cover costs. Richard Taylor replied that income from VoIP would be additional to what is being collected now. He also mentioned the seventy cent cap is already in effect; the Board may reduce the rate, but it may not set it to exceed seventy cents. Richard Bradford added that such rate adjustments are only allowed at specific intervals. Ms Troutman asked if anyone has done any fiscal analysis, and Richard Taylor said he had done some in-house earlier, but because of misuse of wireline funds it was very hard to quantify. By way of illustration, Richard said he had already received phone calls from several counties currently using their wireline money to pay for radio systems saying they won't be able to pay the radio system bills if that money becomes subject to an appropriate use audit. The fact that those funds have been misused makes it difficult to postulate how much of an addition or reduction of funds will be necessary to meet true 911 needs.

Ms. Troutman asked if the distributed funds would still be maintained in a local fund by the local government. Richard Taylor said they would, and pointed out that if this bill becomes law, any current balances in local government wireline funds will be freed to be used for any lawful purpose, i.e. they may go into the general fund. From that point forward, however, spending of 911 funds will be limited to statutorily eligible 911 expenses.

Joe Durham said that in the absence of fiscal analysis, how can we be sure a flat rate seventy cent service fee will be sufficient? Richard Taylor replied that wireline collection statewide totals had been considered, and when broken down came out to a little over seventy cents per month. That was the impetus for the bill's language stating that whatever each PSAP received in FY 2006 will be provided in FY 2007, to ensure that each PSAP receives at least the equivalent to what it previously did. Mr. Durham asked what benefit Wake County citizens will receive from a tripling of their wireline fee.

Richard Taylor replied that their PSAPs will benefit from expanded use of the fund. Chairman Stoneman observed that there may be counties that will only be charging a third of what they used to charge, so it is a give and take thing. Dave Corn noted that if Joe (or any Wake County citizen) were traveling outside of Wake County and required 911 assistance, they may well benefit from improvements that may be available to smaller or less well equipped PSAPs through this legislation. Joe countered by saying he would prefer those PSAPs charge whatever rate they need to provide that kind of service rather than charging Wake County citizens more. Chairman Stoneman said there will probably be many other counties with similar concerns, but there will also be many that welcome the change. From a Board perspective, it is important that there be a statewide focus. Dave Corn observed the municipalities have a powerful lobby in the legislature, so if they voice concerns such as Joe's the passage of the bill may not be a "slam dunk".

Richard Taylor added that the Joint Legislative Utility Review Committee review of H1755 went very smoothly. Municipalities were represented, PSAPs were represented, the telcos were represented, wireless carriers were represented, and everybody was in favor of it; there was no one who spoke against it. Richard added that he can't say that there isn't other opposition to it, but he can say that at that first meeting there was no opposition to the bill.

Rebecca Troutman asked how VoIP providers would be identified and forced to pay 911 fees, adding that when she spoke with Linda Millsaps about it last year she had no earthly idea how to do that. Richard replied that he doesn't know how much Linda is aware of, but companies like Intrado work with the providers every day. The VoIP companies are required to access 911 services, and in order to do that they have to identify themselves. Guest Carey Spence, of Intrado, confirmed that they do work with States which have wireless and wireline programs together, providing contact between the States and the VoIP providers. Rebecca said she thought there was a problem getting Vonage to pay, and Carey said they are paying in all but a few states. Richard Taylor said that Vonage has wanted to pay NC, and Bill Craigle observed the problem was not having one point of contact. Richard reminded everyone of Vonage's letter to the Governor, as well as contacts with him and Richard Bradford. The problem is that we have had no authority to collect. Ms. Spence added that all VoIP providers are seeking that one point of contact, and that it is going to become even more prevalent as all the alternative classes of service using IP for contacting 911 proliferate. Carey added that the problem is not limited to collection, but also to deployment.

Chairman Stoneman said something we need to be aware of, and perhaps have as an agenda item at the next meeting, is that if this bill passes it may impact some of the initiatives the Wireless Board is working on, and it may present opportunities for new ones. If we become one 911 Emergency Locating Board, there will be operational, financial, budgetary, and management issues. We will probably be managing that fund very differently. Chairman Stoneman encouraged everyone to be thinking about these issues between this meeting and the next, and to shoot some bullets to Richard Taylor if they come up with something they think needs consideration. For example, do we need to see if we can do additional things in conjunction with the effort for the RFP? Chairman Stoneman added the role of the Board is going to broaden significantly, and Board Members will be "wearing some other hats", if the bill becomes law.

Before moving to the next agenda item, Richard Taylor addressed Joe Durham's question about fiscal studies by mentioning that he had run numbers internally when he first heard about this proposal, looking at percentages and how to split funds and things like that. Richard said he did not feel comfortable with any solution other than what the bill drafters came up with: providing PSAPs with what they received last year. He stressed that he only did this internally, not as any formal fiscal research or anything like that. Chairman Stoneman asked if that was information that could be shared with the Board, and Richard said he would put something together. Joe Durham asked if Fiscal Research has done anything, and Richard replied they may or many not have; that he was not aware of anything, however. Rebecca Troutman said she had put a call in to Brenda yesterday, but had not heard back.

Wayne Bowers asked about the composition of the new Board as outlined in the bill, having observed that the number of members representing private entities was greater than the number representing public entities; seven public versus nine private. The existing Board is balanced. When Richard Taylor looked back at the proposal, he confirmed that Mr. Bowers was correct. He did not know if that imbalance was deliberate, but said that he would definitely find out; he would contact the bill sponsors to get to the bottom of it, letting them know that this Board expects a balance.

Richard Bradford mentioned that he has been monitoring two other bills, S831 and H1587. S831 has to do with cell tower regulation, and H1587 has to do with the authority of local governments to basically get into the telephone business, along with other things that they can do. Mr. Bradford said he is not suggesting a position and there is nothing for the Board to do. He just wanted Board Members to be aware of them.

Introduction and Discussion of Proposed Rulemaking

Richard Bradford reminded attendees that during discussion a while back we had mentioned that staff thought it was a good idea to engage in rulemaking. A draft set of rules has been provided for review on the Board Members page of the website. Richard said that all he wanted to do today was let Board Members know it was there, and also to briefly discuss what the process involves. Rules that have a fiscal impact have to go through an additional step, and rules from our Board would have to meet that requirement. So they would have to be passed through both the Governor's Office and OSBM. Richard believes Jonathan Womer at OSBM would be a good contact.

Richard illustrated the process with a flow chart available on the OAH website. He pointed out there is a notice of text, a hearing, and that people can submit comments for about sixty days. Then we would go to Rules Review, which is a separate commission, and once it passes Rules Review we can adopt the rule. If there are objections along the way, various things can happen: the Legislature can become involved and/or the Rules Review Commission can reject the rules, and if they do that there is probably good reason to re-think what we've done. Richard observed that staff at both OAH and Rules Review and their attorneys are available for consultation throughout the process, so most people consult and work with them before they ever publish their rules. The

process typically takes approximately four months from proposal to adoption, based on a schedule set out in advance by Rules Review.

Richard noted that due to pending legislation, it may be wise to think about the rules that have been drafted and move forward with those that we have, and then be prepared to amend those with additional rules if the legislation enacts changes such as expanding the Board into a wireline and wireless Board. He said that he would welcome any comments, positive or negative, that Board members may have concerning the draft. He pointed out that the proposed rules are substantially the same as current policy, and added there are a couple of changes, one of them requiring providers to tell us who they are and where they provide service, which is something they don't currently do. Richard added that hopefully the rules that are drafted will clarify some of the procedures, observing that if the Board is expanded to include wireline, this will be very important to local governments as well, so he would expect comments from local governments during the comment period for any rules.

Chairman Stoneman said it seems we should establish a cutoff date for comments from the Board so that Richard Bradford can present a draft for consensus agreement. Chairman Stoneman suggested that Board members submit any comments to Richard Bradford by June 1. When Richard completes the final draft, he will circulate it by email for member review.

Richard Bradford concluded by saying there is a requirement that the Board have a Rules Coordinator, which is a position he cannot fill as Board counsel. He and Richard Taylor suggested Ron Adams to fill that role.

Update on Annual PSAP Audit

Marsha Tapler reported that of the Revenue/Expenditure reports we have received, thirty-five of the audits are completed and approved, we're still waiting on five to whom she has sent second notices, four reports have still to be reviewed, we have sent forty-nine clarification request letters, and we have thirty reports still in process.

Update on Comprehensive Statewide Wireless 911 RFP

Richard Taylor reported that we heard back from four respondents before the April 23 deadline. The respondents were the ECU Bureau of Business Research, Intrado, L. Robert Kimball, and Northrup Grumman. Richard reminded everyone that the evaluation process is a two step process, and said that staff has completed the first step, which entails determining how capable respondents are to meet the objectives of the RFP. He said the next step is to look at the funding aspect, i.e. what they will charge for their services, adding that is the step we are into right now.

Chairman Stoneman asked if Richard Taylor knew when the cost proposals would be in, and if he had an estimated award date in mind. Richard Taylor deferred to Richard Bradford, who said that typically vendors are expected to provide that information within two to three weeks of receipt of the request from Procurement. Guest Rebecca Troutman asked if any thought had been given to how passage of H1755 would impact this RFP. Richard Taylor replied that much thought had been given to that, and that the

present RFP is very comprehensive, crafted to collect information pertinent to all forms of 911, not just wireless. He said that if H1755 passes, however, we certainly will have to revisit it to ensure we have all the bases covered.

Update on Federal Legislation

Richard Taylor reported there are a couple of pieces of federal legislation pending regarding 911: Senate Bill 4 and Senate Bill 93. One is dealing with VoIP and the other with the National 911 Program Office, but he is reluctant to discuss them until he has a better understanding of each. There is also an APCO filing with the FCC asking for accuracy testing from wireless carriers at a PSAP level rather than at a State level. NRIC (Network Reliability and Interoperability Council), a group that the FCC had working on this, had considered testing at a State level, but had stopped short of making a recommendation.

Richard explained that testing at a PSAP level would be a huge challenge for providers using a network based Phase II solution, since in many areas there is an insufficient number of cell sites in a PSAP jurisdiction to triangulate signals. He said that in his discussions with staff up at the FCC he has learned that Commissioner Martin seems to favor this initiative, and wants to make it a part of 94-102. Richard added that May 31st is the expected date for a determination on this issue, but that it will probably appear in the form of an NPRM (Notice of Proposed Rulemaking).

Richard observed that if this becomes a part of 94-102, this could affect carrier cost recovery. It could have a big impact on the carrier side of our fund, because the cost of doing this testing at a PSAP level could be very expensive. Richard said he does know that several of the carriers are opposed to this. Chairman Stoneman asked what is involved in this testing, and Richard replied there are several ways it could be done, including going out into the field to place test calls. Since Intrado performs such testing, Richard asked guest Carey Spence from Intrado for additional insight.

Ms. Spence said that Intrado has a technology available to carriers that doesn't require all the manpower in the field making test calls, automating it to some level. Intrado is currently working with several of its carrier clients on that. The technology is capable of testing at multiple levels. She reiterated there is a cost to carriers to do that, and they have looked at solutions to make it more economical for the carriers and easier to implement. Intrado does recognize the impact to 94-102, which is one of the reasons they are pursuing this, because putting large numbers of people in the field across the country would be very expensive. Carey offered to share a demo with the Board if any members are interested.

Chairman Stoneman said he brought the subject up to see if there might be some way for the Board to work at a statewide level to streamline the process and make it more affordable. Dave Corn asked if part of the problem from an engineering perspective isn't just that in rural areas there are not enough towers at a PSAP level to triangulate signals to provide accurate information. Richard Taylor agreed, noting that is why carriers prefer testing at a statewide level. Richard Bradford added that several large carriers are currently testing on a national level. Carey Spence asked if Richard Taylor had learned anything about the punitive aspects of the accuracy testing in his

conversations with the FCC, or what the remedy would be. Richard said he has not heard anything about that, but that is the great fear among carriers. Dave Corn said that while he thinks testing is a good idea, he feels that in the western part of the State it would be impossible to meet the standards at a PSAP level. Richard Taylor added that the northeastern part of the state would face the same problem.

Richard reminded everyone that, as he has said before, he is not for either State level or PSAP level accuracy, but for “per call” accuracy. He was referring to the “uncertainty factor” passed by most wireless carriers, but not by all wireline carrier networks. He pointed out that a telecommunicator taking a 911 call cares about that call, and the accuracy of the information being provided with that call, not what the accuracy was the last time testing was conducted. Richard observed that anyone making even a minor adjustment to tower equipment could inadvertently change the accuracy of that equipment. If such a change happened just after an annual test were conducted, that equipment would remain inaccurate until the next testing cycle nearly a year later. He believes that knowing the accuracy of each call, whether poor or good, is far more useful and important than abstract periodic testing. He would rather see a standard developed and required of all the wireless carriers, which they pretty much do now, to do that. The problem is that at the LEC level that information is not being passed.

Dave Corn asked what impact PSAP level testing would have on the Wireless 911 Fund if it had to provide cost recovery to the carriers for that testing, and/or if we could project what those numbers would be. Richard Taylor replied he didn't know, that it would be very difficult to project until we see what the requirement is, and discuss with providers and carriers what the potential solutions would be. He said the only thing he knows is that if such a requirement is put into 94-102, there will definitely be an impact.

Field Reports

a) Richard Taylor said legislative issues have occupied much of his time since the last meeting. He has been active with GICC, serving on two sub-committees, including the Data Sharing subcommittee which is promoting data sharing so that PSAPs across the State could have access to mapping data that would help them locate misrouted calls. Richard was invited to a State Office of Emergency Management meeting about its new Web EOC application. That group had learned about our efforts with a Comprehensive Statewide Plan. Their application is currently totally on the Internet, but if a statewide managed network is rolled out, they would be able to take advantage of it to see, for example, live CAD feeds from any area of the state contending with some sort of a mass incident.

Richard was invited to be a panelist for the FCC at its 911 Summit dealing with next generation 911, which he said was a very lively session. He is also participating in the ITS Leadership Development program, where he notes he is learning as much about ITS as he is about leadership. He was asked to present a program at the Plant/CML users group about changes in 911. He calls it *Bubba don't dispatch on lat/lon*, looking at how 911 has moved from being address based to a next generation approach of being GIS location based. It's a sometimes tongue in cheek, high level look at NG 911.

b) Ron Adams reported that he had been very involved with the audit and the RFP since the last meeting. He added that he has held some Wireless 911 for Telecommunicators classes, and has some firmly scheduled in the near future with others still TBD.

Status of Phase I / Phase II Wireless 911 in North Carolina

Ron Adams reported that the list of outstanding Phase I deployments has gotten shorter, with most of the remaining deployments anticipated during the summer. He noted few substantive changes in the number of PSAPs that have still not requested Phase II, with only one PSAP (Martin County) requesting it since the last meeting.

Chairman Stoneman suggested we forego these reports at future meetings unless something extraordinary has happened, and Richard Taylor and Ron readily agreed.

Administrative Reports

Marsha Tapler reported on the PSAP distribution numbers for March (~\$1.7 million) and April (~\$1.6 million), the year to date distributions (~\$17.9 million), and the fund balance (~\$18.2 million, of which ~\$13 million is on the CMRS provider side).

Adjourn

Chairman Stoneman asked if anyone had other business to bring before the Board, and Richard Taylor said he had one more item that wasn't on the agenda. Trey Greene has submitted his resignation to the Board effective today, as he is leaving AT&T to take other employment outside of the wireless industry. He was in his office processing out today, and didn't know if he would be able to teleconference into this meeting, but apparently was not able to.

Chairman Stoneman asked for a motion to adjourn, Joe Durham so moved, David Dodd seconded, and the motion carried.